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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
159,549	6/16/80	Wurtzman, et al	M.I.T. 3405

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EXAMINER	
Cacciapaglia	
ART UNIT	PAPER NUMBER
125	MAILED

DATE MAILED:

FEB 10 1981 #5

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

GROUP 120

This application has been examined.

Responsive to communication filed on 12/30/80

This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892 2. Notice of Informal Patent Drawing, PTO-948
3. Notice of References Cited by Applicant, PTO-1449 4. Notice of Informal Patent Application, Form PTO-152

5. _____

Part II SUMMARY OF ACTION

1. Claims 5-6 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. Claims _____ have been cancelled.

3. Claims _____ are allowed.

4. Claims 5-6 are rejected.

5. Claims _____ are objected to.

6. Claims _____ are subject to restriction or election requirement.

7. The formal drawings filed on _____ are acceptable.

8. The drawing correction request filed on _____ has been approved. disapproved.

9. Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has
 been received. not been received. been filed in parent application, serial no. _____,
filed on _____.

10. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

11. Other

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SN 159,549

Art Unit 125

Claims 5-6 stand rejected as obvious over S, T & U in view of A under 35 USC 103 for reasons of record.

Applicants concede that the prior art shows that the racemic mixture of fenfluramine has the effect of lowering carbohydrate consumption while sparing protein consumption but argue that the primary references fail to suggest that either isomer is more active than the other. It is believed that A more than overcomes this argued deficiency in the primary references in its teaching that the d-isomer is the more active as an anorectic agent. To further demonstrate that the d-isomer addition, ^{ally} is more active than the racemate for the same purpose taught in the primary reference is seen to involve no patentably significant unexpected result.

Applicants are requested to file copies of the references cited on page 2 of the specification to complete the record.

No claim is allowed. This rejection is made Final.

FCacciapaglia:srb

A/C 703

557-2575

1/30/81


FRANK CACCIAPAGLIA, JR.
PRIMARY EXAMINER
ART UNIT 125

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